

REMARKS

No amendments have been made to the claims or specification.

Rejection under 35 U.S.C. § 103

Claims 1-6, 9 and 11 stand rejected under 35 U.S.C. § 103, as allegedly unpatentable over U.S. 7,169,786. The 786 patent is available only as 102(e) prior art against the pending application. At the time the claimed invention was made, the 786 patent and the claimed invention were both subject to an obligation of assignment to Janssen Pharmaceutica N.V. As a result, the 786 patent cannot preclude patentability of the claimed invention. 35 U.S.C. § 103(c)(1). The assignment documents for the pending case are at Reel 019187 Frames 0016, 0049, 0096, and 0144. The assignment documents for the 786 patent have also been filed with the U.S.P.T.O.; copies of these documents are included herewith. The rejection is considered moot.

Obviousness-type double patenting rejection

Claims 1-6, 9, and 11 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1-3, 5, 7, and 13-15 of the 786 patent. While the Applicants do not necessarily agree, a terminal disclaimer is submitted herewith in order to obviate the rejection.

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The Applicants submit that the foregoing constitutes a complete response to the March 3, 2008 Office Action and that the claims are in condition for allowance. And early Notice to that effect is, therefore, earnestly solicited.

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